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ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/29/2022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHAJONNY SANTANA,

Movant,

-against-

UNITED STATES OF AMERICA,

Respondent.

21-CV-2659 (VEC)

17-CR-438 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on March 25, 2021, Mr. Santana filed a petition to vacate, set aside, or correct his conviction pursuant to 28 U.S.C. § 2255, arguing that he received ineffective assistance of counsel, *see* Dkts. 604, 614;

WHEREAS on July 28, 2022, the Court denied Mr. Santana's § 2255 petition, Order, Dkt. 708;

WHEREAS on August 26, 2022, Mr. Santana moved for reconsideration pursuant to Fed. R. Civ. P. 59(e), *see* Dkt. 719;

WHEREAS on September 6, 2022, the Court denied Mr. Santana's motion for reconsideration, Dkt. 720;

WHEREAS on November 9, 2022, Mr. Santana moved for a certificate of appealability with respect to the Undersigned's denial of his motion for reconsideration, *see* Dkt. 742;

WHEREAS Rule 11(a) of the Rules Governing Section 2255 Proceedings provides that the "district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant," and that "[i]f the court denies a certificate, a party may not appeal the

denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22”; and


WHEREAS to obtain a certificate of appealability, Petitioner must make a “substantial showing of the denial of a constitutional right,” 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (“[A] substantial showing of the denial of a constitutional right . . . includes showing that reasonable jurists could debate whether . . . the petition should have been resolved in a different manner.”); *see also Lasher v. United States*, 970 F.3d 129, 131–32 (2d Cir. 2020) (stating that an order denying a certificate of appealability is not in and of itself appealable, because it “decides only whether the court, having already concluded that the § 2255 motion is without merit, believes the motion to be so baseless that no reasonable jurist could differ with the court’s disposition”).

IT IS HEREBY ORDERED that Mr. Santana’s motion for a certificate of appealability is DENIED. The Court finds that Mr. Santana has not made a substantial showing that he was denied a constitutional right.

The Clerk of Court is respectfully directed to close the open motion at docket entry 742 and to mail a copy of this order to Mr. Santana.

SO ORDERED.

Date: November 29, 2022
New York, New York


VALERIE CAPRONI
United States District Judge